(3)

Single Bench (1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.4889/2005

PETITIONER

K.K. Yadav,
S/o. Shri Y.N. Yadav,
Aged about 37 years,
Occupation - service,
Presently working as
Assistant Manager,
R.M. Office, BSP Unit,
Chennai (Tamilnadu),
R/o.Qr.No.12-A,F-Pocket,
Maroda Sector, Bhilai,
District Durg (C.G)

P.R.No. 4557/05
Presented by Shri R.K. Pali
dated 22/9/05

VERSUS

RESPONDENTS

1. Chairman,
Steel Authority of India
Limited, New Delhi.

2. Bhilai Steel Plant,
Bhilai, Dist.Durg (C.G.)
Through its Managing
Director

3. Chief Personnel Manager
(Executive Cell),
Bhilai Steel Plant,
Bhilai, Dist. Durg (C.G)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS

(39)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4889 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	20.10.2005 **W.P.No.4889/2005** Smt. Fouzia Mirza, counsel for the petitioner. Heard on admission. The petitioner, who was working as Assistant Manager in Bhilai Steel Plant, Bhilai and has been transferred vide impugned order dated 6.8.2004(Annexure P-2) has challenged the validity of his transfer order. Smt. Fouzia Mirza submits that a departmental enquiry was going on against the petitioner and the same was completed on 14.7.2004 and an order of punishment was passed against the petitioner. She further submits that against the aforesaid order of punishment dated 14.7.2004, the petitioner filed a departmental appeal before the concerned authority and the concerned authority decided the appeal on 10.5.2005 and punishment awarded to the petitioner was reduced. She further submits that after passing of the order of punishment by the disciplinary authority on 14.7.2004, the petitioner has been malafidely transferred on 6.8.2004 from Bhilai to Chennai. The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendrikya Vidyalaya Sangathan –Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563*** observed that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

vitiated by *mala-fide* or infraction of any prescribed norms of principles governing the transfer. (please see *Ambani Kanta Ray – Vs- State of Orissa – 1995 (Suppl.) 4 SCC 169*). Unless the order of transfer is vitiated by *mala fide* or is made in violation of operative guidelines, the Court cannot interfere with it. *(See Union of India – Vs- S.L. Abbas AIR 1993 SC 2444*). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of India & others –Vs- Janardan Debanath & another (2004) 4 SCC 245***, it was observed as follows:

> *"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in* ***National Hydroelectric Power Corpn. Ltd. –Vs- Shri Bhagwan (2001) 8 SCC 574.***

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner could not point out any specific grounds on the basis of which it can be assumed that the transfer of petitioner has been affected by *mala-fide* and the same is vitiated for the said reason.

There is no dispute in this matter that the petitioner is holding a transferable post. There is also no dispute about the fact that a departmental enquiry was pending against the petitioner and the same was completed on 14.7.2004 and thereafter only, the petitioner was transferred from Bhilai to Chennai on 6.8.2004.

There appears to be no malafide in the normal action taken by the respondents.

Learned counsel for the petitioner could not point out that this order has been passed in violation of any statutory provision.

In the facts and circumstances of the case, I am not inclined to interfere in the impugned order of transfer of the petitioner passed on 6.8.2004.

The petition has no merit. The same is dismissed in limine.

Consequently, M.W.P.No.3927/2005 and I.A.No.8646/2005 for urgent hearing also stand disposed of.

Sd/-
Sunil Kumar Sinha
Judge

Sumita